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SENATE

{ REPORT
100-259

THE CREDIT AND CHARGE CARD COST
DISCLOSURE ACT

REPORT

OF THE

COMMITTEE ON BANKING, HOUSING,
AND URBAN AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 515

together with

ADDITIONAL VIEWS



DECEMBER 16 (legislative day, DECEMBER 15), 1987.—Ordered to be printed

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THE CREDIT AND CHARGE CARD COST DISCLOSURE ACT

DECEMBER 16 (legislative day, DECEMBER 15), 1987.—Ordered to be printed

Mr. PROXMIRE, from the Committee on Banking, Housing, and
Urban Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 515]

INTRODUCTION

On December 2, 1987, the Senate Banking Committee marked up and ordered to be reported H.R. 515, the Credit and Charge Card Cost Disclosure Act, a bill to provide for more detailed and uniform disclosure by credit and charge card issuers, at the time of application or solicitation, of information relating to interest rates and other costs which may be incurred by consumers through the use of any credit or charge card.

The bill is designed to give consumers relevant cost information about credit and charge cards at a time when they can shop around for the best card. The Committee believes this information will be beneficial to consumers as well as to competition. The Committee reported the bill by a voice vote.

PURPOSE OF THE LEGISLATION

The credit card has become an essential part of life in modern America. Today, some 105.5 million people own 801.7 million credit and charge cards.¹ The outstanding balances on revolving credit totalled \$142 billion as of September 30, 1987.²

¹ The Nilson Report, H.S. Nilson, Publisher (February 1987).

² Federal Reserve Board G. 19 Statistical Release, Nov. 6, 1987.

In May of 1981, credit card rates stood at 17.71 percent and profits on credit card loans were modest.³ At the same time, interest rates on other loans were at record highs. In May of 1981, the prime rate hit a high of 20.5 percent and the Federal Reserve Board's discount rate reached 14 percent. Later in the same year, the rate on 30-year mortgages hit 18.63 percent.⁴

Since that time, the latter three rates have declined dramatically. The most recent statistics show the prime rate at 8.75 percent; the discount rate at 6 percent and the mortgage rate at 10.6 percent. Yet at no time since May of 1981 has the national average credit card interest rate fallen below 17.71 percent, the rate 6½ years ago.⁵

Not surprisingly, high credit card interest rates have been translated into high credit card profits. In 1984, 1985 and 1986, credit card loans were the most profitable of all bank loans, often several times more profitable than other loans.⁶ While some people have argued that higher credit card profits were needed to offset losses in earlier years, competitive market places do not allow profits above a competitive level for any length of time.

Given the value of credit card rates to consumers—a 1 percent drop would save consumers about \$700 million a year in interest charges⁷—the Consumer Affairs Subcommittee considered several different proposals for reducing rates, ranging from early disclosure of relevant cost information to legislation that would have imposed a floating Federal cap on credit card interest rates.

H.R. 515, as reported from the Committee, adopts a disclosure approach. Today, consumers are bombarded with solicitations to apply for credit cards. It is estimated that U.S. consumers will receive over 2,400,000,000 solicitations for credit cards in 1987.⁸ Un-

³ The 17.71 figure represents a national average for the month of May, 1981, according to Federal Reserve Board Statistical Releases. The Federal Reserve Functional Cost Analysis data for 1981 show that banks with over \$200 million in deposits earned 1.329 percent on credit card loans in 1981, which was the highest average return for all categories of banks. Historical data from the same analyses show that the annual net earnings of bank card plans before taxes averaged 1.9 percent of balances outstanding from 1972 through 1985.

⁴ The mortgage figure is for October of 1981. "Contract Interest Rates on Conventional 30-Year Fixed Rate Mortgages, A Weekly Survey by the Federal Home Loan Mortgage Corporation."

⁵ See Federal Reserve Board Statistical Releases.

⁶ The average profitability of bank cards was 3.4 percent in 1984, 4.0 percent in 1985, and 3.2 percent in 1986. See Functional Cost Analysis, published annually by the Federal Reserve. By contrast, for example, the same data show the average profitability for commercial and other loans for banks with deposits between \$50 million and \$200 million at .06 percent in 1986 and 1.18 percent for banks of over \$200 million in deposits. Returns for the largest banks averaged 2.21 percent on real estate loans and 2.62 percent on installment loans. The data show similarly lower returns on these other forms of loans in 1984 and 1985.

⁷ The \$700 million figure is a conservative estimate. Many private and public surveys have estimated that 50 percent of cardholders pay off their full credit card balances monthly. It is highly unlikely that these payments represent 50 percent of total balances. Nevertheless, assuming that they did, then, using the September, 1987, figure of \$142 billion in outstanding balances, 50 percent of that amount would be \$71 billion. Assuming an 18 percent APR, which is somewhat below the average of the past 6½ years and .18 percent above the November, 1987 average, that yields an annual credit card interest bill of \$12.78 billion. A 17 percent return would produce \$710 million less revenue for card issuers and the identical amount more for card holders. The reasonableness of a 17 percent APR was attested to at the April 21st hearing of the Consumer Affairs Subcommittee by Walter Connolly, Chairman, Bank of New England Corp., Boston, Massachusetts. Mr. Connolly's bank operates in Massachusetts and Connecticut, the latter of which imposes a 15 percent ceiling on credit card interest rates. Mr. Connolly testified that "our average rate, I would guess, is about 15¼ percent, and we are making money at that rate."

⁸ The Nilson Report, H.S. Nilson, Publisher.

fortunately, far too many of them do not disclose the basic cost information about the card. By law, such information need not be disclosed until the consumer actually receives the card. Moreover, the information consumers receive with the cards covers the entire credit relationship and is often complicated and intimidating. While consumers are legally entitled to return the cards without incurring any charges if they are dissatisfied with the terms, the situation is obviously not conducive to comparison shopping. This lack of disclosure at the time of application or solicitation may help explain why credit card profits remain so high despite the large number of card issuers.

The Committee believes that early disclosure of relevant cost information, coupled with widespread publication of the costs of different cards, will help remedy the problem of enabling consumers to shop around for the best cards. The resulting competition should be good for both consumers and competition. Thus, the bill does the following:

1. It requires the disclosure of the four key cost terms, where applicable, in all mailed applications and solicitations—the annual percentage rate applicable to extensions of credit; the annual or other periodic fee; the “grace” or free period during which a consumer may repay the balance without incurring a finance charge; and the name of the balance calculation method used by the creditor.

2. It requires the disclosure of the same four terms in telephone solicitations. However, the bill provides for an alternative means of telephone disclosure—mailing the information to the consumer later—where the card issuer does not impose a fee, or does not impose a fee unless the consumer signifies acceptance by using the card.

3. It requires disclosures in other forms of applications and solicitations, such as magazines, catalogs and “take-ones.” With respect to such items, the card issuer may disclose the four items, as they would be effective on the date of printing, or instead may simply indicate that there are costs associated with the use of the card and provide a toll free telephone number and an address for the consumer to write for specific cost information.

4. It provides for a special rule for “charge cards,” cards that may be used to obtain credit but which do not permit consumers to roll over balances from month to month. Typical of such cards is the American Express card. For such cards, the bill requires only the disclosure of the annual or periodic fee and a statement that all charges are due and payable upon receipt of the periodic statement.

5. It provides for disclosures prior to renewal where the card issuer imposes an annual or periodic fee. In such circumstances, the card issuer must notify the consumer at least 30 days in advance of the renewal date, indicating what that date is, disclose the four cost items, and inform the consumer how he or she may terminate the relationship, if desired.

6. It contains provisions that restrict civil liability to consumers who actually obtain a credit or charge card and who either pay an annual or periodic fee or use the card.

7. It provides, in general, that the disclosure provisions shall preempt State laws. However, it does permit states that have already acted in this area⁹ to reenact their laws if they wish to require additional disclosures in applications and solicitations.

8. It requires credit and charge card issuers to submit semi-annually to the Federal Reserve Board information about the four cost items. It is anticipated that newspapers and consumer groups will use this information to inform consumers about the virtues and vices of different cards.

9. It contains provisions to protect cardholders who have purchased insurance to pay off their credit card balances. It provides that when a proposed change in such insurance would result in coverage that is not at least equivalent to their old coverage, the new insurance may take effect only if the consumer files a written election to continue to purchase the insurance, as so charged.

10. It requires the Federal Reserve Board to promulgate regulations implementing the disclosure provisions within 120 days of enactment and gives creditors another 120 days to comply with the regulations.

11. It requires the Board to transmit three reports to the Congress: an assessment of the profitability of card operations, including an analysis of the impact of the provisions of this Act; a description of the different balance calculation methods being used; and the assessment of the impact of the Act on the availability of credit to low-income consumers.

HISTORY OF THE LEGISLATION

This is the second Congress in which the Committee has considered credit card disclosure legislation. In the 99th Congress, the Subcommittee on Financial Institutions and Consumer Affairs conducted hearings on January 28, 1986, and May 21, 1986, but no legislation moved forward because of a lack of time.

In this Congress, the Subcommittee on Consumer Affairs held a hearing on April 21, 1987, on three bills: S. 241, the Credit Card Disclosure Act of 1987, introduced by Senator D'Amato; S. 242, the Credit Cardholder Protection Act, also introduced by Senator D'Amato, which would have placed an indexed ceiling on credit card interest rates; S. 616, the Full Credit Card Cost Disclosure Act, introduced by Senators Dodd and Proxmire; and S. 647, the Credit Card Account Holder Protection Act, introduced by Senator Sasser, which included both disclosure and rate ceiling provisions.

At the hearing, Congressman Charles Schumer testified in favor of his credit card legislation, H.R. 515, which was identical to S. 616. Alan Fox of the Consumer Federation of America and Elgie Holstein of Bankcard Holders of America supported both disclosure and rate cap legislation. Martha R. Seger, Member, Board of Governors of the Federal Reserve System, testified that the Board gener-

⁹ Ten States have enacted disclosure laws: California, Hawaii, Illinois, Minnesota, New York, North Carolina, Oregon, Rhode Island, Virginia, and Wisconsin. The exception would also apply where one House of a State legislature had passed a credit card disclosure bill by Dec. 2, 1987. The Committee is aware that the State of Tennessee is one such State.

ally favored disclosure, within certain parameters, and opposed federal rate ceilings.

Several representatives of lender groups also appeared. Meredith Fernstrom, Senior Vice President, American Express; James Wiesler, representing VISA; Alan Silberstein, representing Mastercard; Jerry D. Craft, representing the American Bankers Association; Michael Zoroya, representing the National Retail Merchants Association; and Ralph Rohner, representing the Consumer Bankers Association all generally supported additional disclosures. Also, William Kizer, Chairman, Central States Health & Life Insurance Company, testified in favor of an amendment to require reenrollment by cardholders when bank holding companies change insurers of bank credit card balances.

On the basis of this testimony and discussions in the hearings, the Credit and Charge Card Cost Disclosure Act was drafted. On December 2, 1987, the Committee adopted by voice vote a Committee Print of the bill, with three amendments, as an amendment to H.R. 515, the House-passed legislation.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 sets forth the short title of the bill, the "Credit and Charge Card Cost Disclosure Act."

Section 2. Credit card and charge card cost disclosure requirements

Section 2 amends section 127 of the Truth in Lending Act (15 U.S.C. 1637) to require new disclosures in connection with applications and solicitations for all credit cards (including bank and retail store cards), and for charge cards, such as the American Express card, that do not permit the consumer to roll over any balances.

The credit card portion is divided into separate provisions for mailed applications and solicitations, telephone solicitations, and other forms of applications and solicitations. For purposes of section 127(c), a "solicitation" is an opportunity to open a credit card account without requiring the completion of a written application.

The requirements do not apply to personal financial statements or general purpose applications unless the forms, or any materials accompanying them, indicate that they can be used to apply for a credit card account. Card issuers may provide the required disclosures either on or with the application or solicitation, and the disclosures can be presented on that part of the application which is returned to the creditor. Also, the requirements do not apply to general media advertisements which do not include applications or solicitations through which a person may apply for an account. If a card issuer includes an application as part of an advertisement and, as a result, discloses the information required by section 127(c), the inclusion of this information shall not "trigger" the requirement to make additional disclosures under section 143.

Section 127(c)(1)(A) requires four credit card terms, to the extent applicable, to be disclosed clearly and conspicuously on or with all applications and solicitations to open a credit card account that are mailed to consumers:

The annual percentage rate (APR);
 Any annual, periodic or membership fee for the issuance or availability of a credit card and any transaction charge for use of the card to purchase goods or services;
 The grace period; and
 The name of the balance calculation method.

Specifically, the card issuer must disclose the annual percentage rate or rates applicable to extensions of credit under the credit card plan. Where more than one rate applies, the card issuer must also disclose the balances or range of balances to which each rate applies.

Where the extension of credit is subject to a variable rate, the card issuer must disclose the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing, and how the rate is determined. For example, a card issuer can satisfy the requirement of disclosing how the rate is determined by identifying the index and the margin or spread above the index. For purposes of this variable rate disclosure, the annual percentage rate disclosed shall be deemed to be the rate in effect at the time of the mailing so long as it was in effect at any time within 30 days before the mailing. Thus a change in the index resulting in a change in the APR within 30 days before the mailing would not invalidate the disclosure.

The second required disclosure is of the annual fee or other periodic or membership fee imposed for the issuance or availability of a credit card and any transaction charge imposed in connection with the use of the card to purchase goods or services. This subsection requires the disclosure of any monthly membership fee or account maintenance fee, as well as any monthly charge imposed when the account has activity during the billing cycle, for the issuance or availability of a credit card. An example of a "transaction charge" that would require disclosure under this provision would be any minimum or percentage transaction fee assessed on consumers for purchases. The subsection does not require the card issuer to disclose any other charge for the use of the credit card, such as a charge when the account is used to obtain a cash advance. Nor does it require the disclosure of any late charge or over-the-limit fees that accrue for misuse of the account.

Third, the card issuer must disclose the date by which or the period within which any credit extended under the credit card plan for the purchase of goods or services must be repaid to avoid incurring a finance charge. If the creditor does not offer such a "grace period," the creditor must clearly disclose that fact. If the length of such grace period varies, the card issuer may disclose the range of days in the grace period, the minimum number of days in the grace period, or the average number of days, if the disclosure is identified as such.

Fourth, the card issuer must identify the balance calculation method used in determining the balance on which the finance charge is computed. If the balance calculation method is one of up to five methods identified by the Federal Reserve Board (the "Board"), the card issuer need only disclose the name of the method. If, however, the method used by the card issuer has not

been so identified by the Board, the card issuer must include a detailed explanation of the balance calculation method. In promulgating its regulations under this provision, the Committee expects the Board to identify the most commonly used methods. The methods identified by the Board shall be general or generic balance calculation methods, rather than particular variations of these general methods, so long as the variations do not have a significant impact on the consumer's finance charge, in carrying out this provision, the Committee expects the Board to identify methods that will encompass those being used by the vast majority of card issuers.

For purposes of this subsection, including the Board's determination, the balance calculation method means the method of determining the balance against which one or more periodic rates are applied to determine the finance charge and does not include any other charges that may be imposed in connection with the account unless such charges are included in the balance against which the periodic rate or rates are applied.

Certain issuers of retail store cards currently provide the initial disclosures required by section 127(a) on or with their credit card application forms. Inasmuch as the initial disclosures required by section 127(a) include the disclosures required by subsection 127(c)(1)(A), such issuers of retail store card can continue the practice of providing the initial disclosures with their applications and thereby satisfy the requirements of subsection 127(c)(1)(A). To fulfill the requirements, however, such card issuers must present the terms required by this subsection together in the initial disclosure form and highlight these terms on the initial disclosure form.

Section 127(c)(1)(B) establishes the disclosure requirements for telephone solicitations. At the time of any such solicitation, the card issuer must disclose the same four terms, to the extent applicable, that are required to be disclosed in the context of mailed applications or solicitations. The bill permits an alternative disclosure for telephone solicitations where the card issuer does not impose an annual fee or other fee described in subparagraph (c)(1)(A)(ii), or does not impose such a fee unless the consumer signifies acceptance by using the card. In either such case, the issuer may disclose the four items within 30 days after the consumer who qualifies for the account requests the card, but in no event later than with the card. The card issuer would not satisfy this requirement simply by providing the materials required by section 127(a). To fulfill this requirement, the card issuer must present the four items together and highlight them. The card issuer must also explain clearly and conspicuously in that disclosure notice that the consumer is not obligated to accept the card or account and that the consumer will not be obligated to pay any of the fees or charges disclosed unless the consumer elects to accept the card or account by using the card. The consumer will not be liable for fraudulent use of the card before the card is accepted by the consumer.

Section 127(c)(2) establishes the disclosure requirements for other credit card applications or solicitations that are made available "to the public or contained in catalogs, magazines, or other publications. . . ." With respect to these materials, the card issuer can either disclose the items required for direct solicitations on or with the applications or solicitations (and indicate that the disclosures

are accurate as of the date of printing but that they are subject to change) or disclose that there are costs associated with the use of credit cards and provide a toll free number to call and an address to write for further information. In the latter case, if the card issuer receives a request for any of the information described in paragraph (1)(A), the card issuer or its agent shall disclose all of the information described in paragraph (1)(A). In addition, if a card issuer discloses any of the information required in paragraph (1)(A) in connection with any application or solicitation under subsection 127(c)(2), the card issuer shall disclose all of the items of information in accordance with paragraph (1)(A).

Section 127(c)(3) sets forth the rules for charge card applications and solicitations. The term "charge card" is defined to mean "a card, plate, or other single credit device that may be used from time to time to obtain credit which is not subject to a finance charge." Because, by definition, the balance on these cards is due and payable upon receipt and cannot be rolled over from month to month, paragraph (3)(A) requires only two disclosures—the annual, periodic or membership fee for the issuance of a charge card and any transaction charge for use of the card to purchase goods or services; and a statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement.

Paragraph (3)(B) addresses charge cards which provide access to open end consumer credit plans. In these situations, where the card issuer and the person extending the credit are different persons, the provision permits the charge card issuer to disclose only the elements required under paragraph (3)(A) if such issuer discloses clearly and conspicuously to the consumer that the charge card issuer will make an independent decision as to whether to issue the card, that the card may arrive before the decision is made with respect to the extension of credit, and that approval by the charge card issuer does not constitute approval by the issuer of the extension of credit. The full information about the costs associated with the line of credit must be disclosed by the creditor that extends such line before the first extension of credit. These disclosures will enable the consumer to make an intelligent choice between such a charge card and a credit card that offers a line of credit.

Subsection (d), "Disclosure Prior to Renewal," requires card issuers that impose annual fees or any other fee described in subsection 127(c)(1)(A)(11), either upon the opening of an account or upon renewal, to make certain disclosures at least 30 days prior to renewal and imposition of a new periodic fee. The renewal date is the date the fee is payable to preserve continued availability and not necessarily the date on which the credit or charge card expires. The notice must disclose clearly and conspicuously (1) the date by which, the month by which, or the billing period at the close of which the account will expire if not renewed; (2) the information described in subsection 127(c)(1)(A) that would apply if the account were renewed; and (3) the manner in which the consumer may terminate continued credit availability under the account.

The subsection makes it clear that the notice may be provided either prior to posting the fee to the account, or with the periodic billing statement first disclosing that the fee has been posted to the

account, so long as the consumer is given at least a 30-day period to avoid payment of the fee, or to have the fee reccredited to the account, in any case where the consumer does not wish to continue the availability of credit. If the card issuer elects to provide the disclosures with the periodic billing statement, such disclosures may be presented either on the statement itself or with the statement. In addition, the creditor may preprint certain of the information on the back of the billing statement if the disclosures are made clearly and conspicuously and if the disclosure on the front of the statement includes a clear reference to such information.

The subsection also permits the Board, by regulation, to provide for fewer disclosures where the account is renewable more frequently than every 6 months. This provision is designed to ease the burden on card issuers in such circumstances, but the Committee expects the Board to require at a minimum disclosure of the periodic fee and of any term that had changed since the last disclosure.

Section 3. Civil Liability

This section restricts civil liability to consumers who actually obtain a credit or charge card and who either pay a fee described in section 127(c)(1)(A)(ii) or who use such card. The effect of this provision is to limit those eligible for minimum penalties for misstatements in advertisements and solicitations to people who actually pay for or use the credit or charge cards.

Section 4. Coordination with other laws

Section 4 amends section 111 of the Truth in Lending Act (15 U.S.C. 1610) so that, with the exceptions described below, the provisions of sections 127(c) and 127(d) supersede any provision of the law of any State or local authority relating to the disclosure of the terms required to be disclosed or the manner in which such terms are disclosed in any credit card application or solicitation or any renewal notice. The section applies to State credit card disclosure laws, not to general disclosure statutes such as State retail installment sales acts and State plain language statutes. Nor does it apply to the use of State mini-Federal Trade Commission statutes to address unfair or deceptive acts or practices.

There are two exceptions to the general preemption. First, this section does not affect any State law enacted or used to enforce the requirements of section 127(c) or (d). Thus, any State may employ or establish laws for the purpose of enforcing the Federal disclosure requirements.

Second, during Committee markup, this section was amended to reflect actions taken by certain States with respect to credit and charge card disclosures. In deference to their efforts, this section permits States that have enacted disclosure laws prior to December 2, 1987, to reenact such laws not later than December 2, 1989. In addition, it permits States in which, during the current session of their legislature, one house of the legislature has passed a bill by December 2, 1987, to complete action on such legislation (the final legislation does not have to be identical to that of the house that has already acted). In either case, any State that meets these requirements would have its disclosure provisions apply to the extent that they are in addition to the four disclosures by section

127(c)(1)(A) or section 127(d). Thus, although all such State legislation would be superseded upon the effective date of this Act, such a State can reinstitute the requirement to disclose one or more of the additional terms included in the original legislation by reenacting the legislation (or, in the case of a State in which one house had enacted a bill before December 2, 1987, by enacting that legislation) within the 2 year period. This exception applies only to actions by the legislature of a State or Commonwealth and does not apply to actions by any county, city or other local body or to requirements established by regulation rather than by State legislation.

The exception for State reenactments or enactments contains two limitations. First, the legislation does not authorize States to include terms not included in the original State legislation enacted by the State. Such provisions would be preempted by the provisions of this Act. Second, to the extent any State law requires the disclosure, or the method of disclosure, of information required to be disclosed under this Act, such provisions are preempted by this law. Thus compliance with the disclosure provisions of this legislation relieves the card issuer from having to comply with State laws mandating the disclosure, or the method of disclosure, of the same items of information. Moreover, since the same forms are often used for both consumer and business applications, State law cannot impose different or additional disclosure requirements in connection with consumer credit or charge card applications even if those same applications can also be used to apply for business accounts.

Section 5. Reporting to the Board of Governor

This section requires card issuers to submit semi-annually to the Board the information required to be disclosed under section 2. Further, it requires the Board to make such information available to the public upon request and to report it to Congress annually. The section does not require the Board to publish such information itself. Any person who wishes to secure this information would be obligated to pay the Board's costs of reproducing the material.

Section 6. Insurance provided in connection with certain open end credit plans

This section amends section 127 of the Truth in Lending Act to add a subsection (e). Section 127(e)(1) provides that whenever a card issuer that offers any guarantee or insurance for repayment of the outstanding credit card balance on an open end credit card plan (typically, this guarantee or insurance would afford complete or partial coverage for the payment of credit card balances in case of death, disability or involuntary unemployment) proposes to change the person providing the guarantee or insurance, the card issuer shall notify in writing each insured cardholder and the insurance commissioner of the appropriate State of the change in insurer not less than 30 days prior to the change.

Section (e)(2) establishes a special rule for adverse change. When the new guarantee or insurance coverage is not at least equivalent in cost, amount, terms, and conditions as the current guarantee or insurance, the cardholder may continue the coverage, as so changed, only if he or she affirmatively files a written election to continue such coverage. The Committee intends this section to be

applicable whenever the new coverage would be more costly to the cardholder or when a significant term has been changed to the detriment of the consumer. An example of the latter would be a change from 30 to 45 days in the waiting period before benefits commence. Another example would be a change in the number and identity of people who are covered.

Section (e)(3) provides that if the law of the appropriate State requires notification and reenrollment, the card issuer shall comply with the State requirements instead of the requirement of this section. Paragraph (4) defines the "appropriate State" as the State in which the creditor has its principal place of business, except that where a majority of the cardholders are located in another State, the "appropriate State" is that other State.

Section 7. Effective date

This section requires the Board to issue regulations implementing the disclosure requirements of section 2 within 120 days of the date of enactment. The regulations would go into effect 120 days after the initial 120 day period. The time periods in this section supersede the general requirements of section 105(d) of the Truth-in-Lending Act.

The section also provides that any creditor, at its option, may comply with the provisions of the legislation after enactment, but prior to the applicable effective date, in which case all of the provisions of this legislation shall be fully applicable to such creditor. This exception to the effective date provision applies only to creditors that comply with the regulations promulgated by the Board.

Section 8. Reports to the Congress

This section requires the Board to transmit three reports to the Congress within 1 year after the regulations become effective and annually thereafter. The reports are (1) an assessment of the profitability of credit card operations of depository institutions, including an analysis of the impact of the provisions of this Act; (2) a description of the methods of balance calculation being used by card issuers and any changes in the methods; and (3) the impact of this Act on the availability of credit to low income consumers.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement regarding the regulatory impact of the bill. Utilizing existing staff resources, the Board should be able to devise uniform disclosure requirements which will be easy for card issuers to comply with, given their degree of automation. Inasmuch as the provisions of this bill will replace many of the varying and sometime conflicting disclosure laws of different states, this bill should result in little or no increase in regulatory burden.

CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirement of paragraph 12 of Rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

COST OF LEGISLATION

The Committee has requested a cost estimate of this legislation under the provisions of Section 403 of the Congressional Budget Act of 1974. The cost estimate of the Congressional Budget Office appears below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 10, 1987.

Hon. WILLIAM V. PROXMIRE,
Chairman, Committee on Banking, Housing, and Urban Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the following cost estimate of H.R. 515 as amended, the "Credit and Charge Card Cost Disclosure Act", as ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on December 2, 1987. We estimate that enactment will have no significant budgetary effect.

H.R. 515 as amended would require that mailed solicitations or applications for credit cards contain disclosure of the annual percentage rate applicable to extensions of credit, annual and other fees, the balance calculation method, and the grace period after which interest charges accrue; telephone solicitations would be subject to the same disclosure requirements except under certain conditions. Charge card solicitations and applications, in general, must contain the amount of any fees and a statement that charges are payable upon receipt of the periodic statement. At time of the annual renewal of a credit or charge card that contains a fee, the creditor must send further information to the cardholder. Additional regulations cover revolving (open end) credit plans that offer outside insurance arranged by the creditor. If the insurer is changed and the new coverage is not at least equivalent in cost, amount, terms, and conditions, then the cardholder may only renew the arrangement in writing.

The legislation also requires all credit card issuers to submit semiannually the required disclosures to the Federal Reserve Board, which must make the information available to the public. The Federal Reserve must also transmit to Congress three reports, two assessing the impacts of this legislation, and one reporting on the prevailing methods of balance calculation.

By requiring the Federal Reserve Board to compile a credit and charge card "shopper's guide", the legislation could increase Federal Reserve costs and therefore decrease its operating profit. These added costs, however, are expected to be insignificant in their federal budget effects. Profits of the Federal Reserve, which are returned to the Treasury and classified as tax revenues, will be virtually unaffected by H.R. 515 as amended.

If you wish further information, please feel free to call me or you may wish your staff to contact Mark Booth of the Tax Analysis Division at 226-2680.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH, *Acting Director.*

ADDITIONAL VIEWS OF SENATOR JIM SASSER

I am pleased to support credit card cost disclosure legislation. I believe that Senator Dodd has done an excellent job in formulating this legislation that is designed to deal with a vexing problem for American consumers.

The disclosure provisions of the Dodd Bill will be of enormous value to consumers in determining which credit card plans best suit their needs and in determining the actual cost of these plans. In other words, consumers will know what they are getting into. For too long, too many consumers have been duped by seemingly attractive credit card programs because there was too little information up front as to actual terms and conditions.

Further, along with the need for credit card disclosure, the high interest rates paid by credit card consumers has been a concern of mine. I introduced legislation early this year which contained disclosure provisions similar to those of this bill and which dealt with the question of credit card interest rates.

I was concerned at that time, as were many other members of this Committee, that interest rates being paid by consumers on credit cards were much too high. At the Consumer Affairs Subcommittee hearing on credit card legislation last April the focus was almost entirely on the interest rate question. At a time when market interest rates had dropped from the 18 percent level to well below 10 percent, credit card rates were still hovering near 20 percent. It appeared that credit card rates were completely unresponsive to market or competitive pressures, and that consumers were bearing the brunt.

I think it's worth noting that credit card rates have moved down somewhat. Since the Spring—a time period during which market interest rates were actually rising—credit card rates have come down. The average credit card interest rate is now 17 percent—a drop of 1 percentage point. In fact, some credit card issuers are offering differing types of plans with interest rates as low as 11 percent. Indeed, American Express has put forth the "Optima" card, a major new credit card at 13.5 percent. So I think that our legislative focus on the issue was positive in bringing some relief to credit card customers.

Finally, I note that this legislation contains a provision preempting State credit card disclosure laws. However, there is an exception for States that have already enacted disclosure laws and for States, such as Tennessee, where one house of the legislature has passed a disclosure law. Those States are given 2 years to reenact or enact a disclosure law. Thus, the States that had a particular interest in this type of legislation will have the opportunity to appraise the Federal approach, decide whether it meets their needs and add complementary requirements should they find the Federal law inadequate.

JIM SASSER.

ADDITIONAL VIEWS OF SENATORS GARN, HECHT, BOND,
KARNES, AND SHELBY

We are particularly troubled by one provision of the bill. Section 5 of this legislation requires every credit card issuer in the country, including banks, retailers and other merchants, to submit to the Federal Reserve Board every six months a statement containing all of the information already required by this bill to be disclosed when an application to obtain a credit card is first distributed to consumers. The information thus required to be reported includes: (1) the annual percentage rate or rates applicable to extensions of credit; (2) if the rate is variable, the fact that it is variable, the annual percentage rate in effect at the time the application is mailed to the consumer and how the rate is determined; (3) where more than one rate applies, the range of balances to which each rate applies; (4) any annual fee, other periodic fee, or membership fee or transaction fee; (5) the date by which or the period within which any credit extended must be repaid to avoid a finance charge; and (6) the name of the balance calculation method or a description of that method. This information must then be aggregated by the Board, made available to the public upon request, and reported annually to the Congress.

Chairman Greenspan of the Federal Reserve Board, in a letter dated December 1, 1987, urged that this provision be deleted as unnecessary. His letter goes on to note that information from over 10,000 entities would have to be aggregated, and that this costly undertaking would be of little use to consumers, who could obtain equivalent information from private sector sources at nominal costs. The staff of the Board estimates that the cost to the Board to comply with this requirement would exceed \$120,000 annually, that the completed guide would exceed 2,000 pages in length, and that reproduction costs would dictate a cost to consumers of between \$125 and \$160 for each report. Further, the \$120,000 annual cost to the Board must come out of the funds that the Board would otherwise have rebated to the Treasury, thus needlessly adding to our budget deficit.

In light of these statistics, the costs involved, and the fact that the report will provide little benefit to consumers, we strongly urge the deletion of this section from the bill.

JAKE GARN.
CHIC HECHT.
CHRISTOPHER S. BOND.
DAVID K. KARNES.
RICHARD C. SHELBY.

ADDITIONAL VIEWS OF SENATORS GARN, CHAFEE, SASSER,
AND WIRTH

The Credit and Charge Card Disclosure Act is a major step forward in the protection of the consumer, by seeing that disclosure of significant financial cost factors are made available during the solicitation and application process for securing credit and charge cards. The central consumer need is to have sufficient information, readily available and intelligible, to make an informed choice of whether or not to use a card, and if so which card. The information provided in this Act should enable the consumer to judge better among the various alternatives.

Nevertheless, this Act does accord federal preemption, except where states have already enacted, or are in the process of enacting, state disclosure laws, in which case such states have two years to reenact such laws unamended and they will then control in each particular provision where they exceed this Act. Although federal preemption would bring national uniformity to the solicitation and application process, there is real cause for concern that it would block the ability of states to accommodate changing consumer needs which may be unique to the state and to react to future situations where corrective statutory measures may be called for. It also represents the first federal limitation of states' rights with regard to the Truth In Lending Act.

Federal preemption will require that this Committee step forward swiftly if any egregious activity with regard to the credit and charge card solicitation and application process is thereby seemingly condoned at the state level. It must also not be seen as an automatic precedent for further federal bounding of states' involvement in matters covered by the Truth In Lending Act.

JAKE GARN.
JOHN H. CHAFEE.
JIM SASSER.
TIM WIRTH.